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Resolve, To Improve the Continuity of Care for Individuals with Behavioral Issues in Long-term Care

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, citizens of the State who are elderly and who develop behavioral issues due to dementia or other reasons are receiving inappropriate treatment, often at significant emotional costs to themselves and at significant financial cost to the State; and

Whereas, the long-term care facilities that provide care to these individuals lack the resources to serve the persons they are caring for; and

Whereas, there exist policies and best practices that could improve the treatment of these individuals and that can be made reasonably available within existing resources; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1 Implementation of recommendations. Resolved: That the Department of Health and Human Services, referred to in this resolve as "the department," shall implement the recommendations contained in its report to the Joint Standing Committee on Health and Human Services pursuant to Resolve 2007, chapter 61. In implementing these recommendations, the department shall:

1. Redirect its services to adult MaineCare members to focus on earlier intervention so as to treat challenging behaviors at an earlier stage;
2. Identify individuals for earliest possible intervention and provide support and training to nursing facility staff in regard to managing the challenging behaviors of these individuals;
3. Provide support and training to in-state nursing facilities that accept individuals who have been placed outside the State and who are returning to the State;
4. Convene an integrated team to develop a means to prevent placement outside the State and to assist in developing appropriate placements for individuals in in-state facilities;
5. Review each out-of-state placement annually to assess the individual's functional and behavioral status to determine if the individual may be returned safely to an in-state facility;
6. Educate nursing facilities regarding the obligations of the facilities under licensing rules governing transfer and discharge requirements; and
7. Review current contracts and practices regarding geropsychiatric units to determine if the geropsychiatric units are being properly used; and be it further

Sec. 2 Case mix reimbursement. Resolved: That the department shall work with interested parties to undertake a review of the current case mix reimbursement system used to establish payment for individuals in long-term care facilities to determine if current reimbursement is adequate and reasonable for the provision of high-quality care for individuals with behavioral issues. The department shall report its findings to the Joint Standing Committee on Health and Human Services by February 1, 2010; and be it further

Sec. 3 Standardized transfer protocol; improved discharge planning. Resolved: That the department, in conjunction with interested parties including but not limited to representatives of long-term care facilities and hospitals, shall develop and implement a standardized transfer protocol, including improving the support offered to a long-term care facility when a hospital has determined that an individual is ready to be discharged back to the long-term care facility. The department shall report on implementation of the protocol to the Joint Standing Committee on Health and Human Services by February 1, 2010; and be it further

Sec. 4 Alternative funding sources. Resolved: That the department shall undertake a review of existing and potential payment sources for psychiatric assessments and psychiatric treatments that are currently unavailable to individuals with behavioral issues because the individuals do not have a diagnosis of severe and persistent mental illness. The department shall submit a report, together with any recommendations for legislative or rule changes, to the Joint Standing Committee on Health and Human Services by February 1, 2010; and be it further

Sec. 5 Levels of care. Resolved: That the department shall work with interested parties to explore the need for a supplementary level of care to accommodate the needs of individuals with behavioral issues who, because of the severity of their behaviors, are not appropriate candidates for return to an existing long-term care facility but who no longer require an acute geropsychiatric hospital setting. The department shall submit its report, together with any recommendations for legislative or rule changes, to the Joint Standing Committee on Health and Human Services by February 1, 2010.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This resolve directs the Department of Health and Human Services:

1. To implement the recommendations contained in the report to the Joint Standing Committee on Health and Human Services pursuant to Resolve 2007, chapter 61, which was enacted by the 123rd Legislature;

2. To work with interested parties to review the current case mix reimbursement system used to establish payment for individuals in long-term care facilities to determine if current reimbursement is adequate and reasonable for the provision of high-quality care for individuals with behavioral issues. It requires the Department of Health and Human Services to report to the Joint Standing Committee on Health and Human Services by February 1, 2010;

3. In conjunction with interested parties, including but not limited to representatives from long-term care facilities and hospitals, to develop and implement a standardized transfer protocol, including improving the support offered to long-term care facilities once a hospital has determined an individual is ready to be discharged back to the facility. It requires the Department of Health and Human Services to report by February 1, 2010 to the Joint Standing Committee on Health and Human Services;

4. To review existing and potential payment sources for psychiatric assessments and psychiatric treatments that are currently unavailable to individuals with behavioral issues because the individuals do not have a diagnosis of severe and persistent mental illness. It requires the Department of Health and Human Services to report by February 1, 2010 to the Joint Standing Committee on Health and Human Services; and

5. To work with interested parties to explore the need for a supplementary level of care to accommodate the needs of individuals with behavioral issues who, because of the severity of their behaviors, are not appropriate candidates for return to an existing long-term care facility but who no longer require an acute geropsychiatric hospital setting. It requires the Department of Health and Human Services to report by February 1, 2010 to the Joint Standing Committee on Health and Human Services.